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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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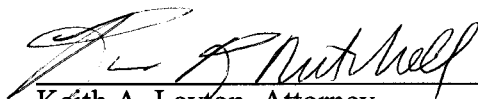
IN THE MATTER OF THE APPLICATION OF  
GOLD CANYON SEWER COMPANY, AN  
ARIZONA CORPORATION, FOR A  
DETERMINATION OF THE FAIR VALUE OF  
ITS UTILITY PLANT AND PROPERTY AND  
FOR INCREASES IN ITS RATES AND  
CHARGES FOR UTILITY SERVICE BASED  
THEREON.

DOCKET NO. SW-02519A-06-0015

**NOTICE OF FILING  
DIRECT TESTIMONY**

Staff of the Arizona Corporation Commission ("Staff") hereby files the Direct Testimony of  
Steven M. Olea of the Utilities Division in the above-referenced matter.

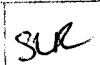
RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of November, 2006.

  
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Original and thirteen (13) copies  
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day of November, 2006 with:

Docket Control  
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Phoenix, Arizona 85007

Arizona Corporation Commission  
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1 Copies of the foregoing e-mailed/  
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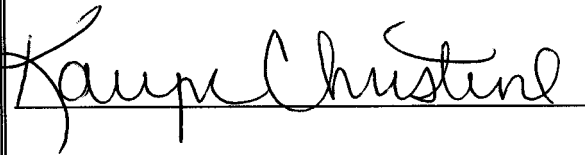
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BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER

Chairman

WILLIAM A. MUNDELL

Commissioner

MIKE GLEASON

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KRISTIN K. MAYES

Commissioner

BARRY WONG

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DOCKET NO. SW-02519A-06-0015

DIRECT

TESTIMONY

OF

STEVEN M. OLEA

ASSISTANT DIRECTOR

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

NOVEMBER 22, 2006

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**EXECUTIVE SUMMARY**  
**GOLD CANYON SEWER COMPANY RATE CASE**  
**DOCKET NO. SW-02519A-06-0015**

The testimony of Mr. Steve Olea offers the Utilities Division Staff's perspective regarding the statements made by Gold Canyon Sewer Company dealing with whether its rates would increase due to investments to upgrade the wastewater treatment plant. It is Staff's opinion that the statements were inaccurate and misleading.

The testimony also provides a possible remedy. Under the constitution and ARS § 40-322.A.1 the Commission could order, in the decision resulting from this case, the Company to make no statements in the future regarding rate increases without first getting those statements approved by the Commission. The Commission could also order the Company to make no misleading or inaccurate statements to its customers regarding any aspects of its operations. In the order the Commission could also warn Gold Canyon that if the Company ever violates this portion of the order, that the Commission will impose monetary and/or other sanctions against the Company which shall not be recovered from rate payers.

1     **I.     INTRODUCTION**

2     **Q.     Please state your name and business address.**

3     A.     Steven M. Olea, 1200 West Washington, Phoenix, Arizona, 85007.

5     **Q.     By whom and in what capacity are you employed?**

6     A.     I am employed by the Arizona Corporation Commission ("Commission") as an Assistant  
7             Director for the Utilities Division ("Division").

9     **Q.     Please state your educational background.**

10    A.     I graduated from Arizona State University ("ASU") in 1976 with a Bachelors Degree in Civil  
11             Engineering. From 1976 to 1978 I obtained 47 graduate hours of credit in Environmental  
12             Engineering at ASU.

14    **Q.     Please state your pertinent work experience.**

15    A.     From April 1978 to October 1978 I worked for the Engineering Services Section of the  
16             Bureau of Air Quality Control in the Arizona Department of Health Services ("ADHS"). My  
17             responsibilities were to inspect air pollution sources to determine compliance with ADHS  
18             rules and regulations.

19  
20             From November 1978 to July 1982 I was with the Technical Review Unit of the Bureau of  
21             Water Quality Control ("BWQC") in ADHS (this is now part of the Arizona Department of  
22             Environmental Quality ["ADEQ"]). My responsibilities were to review water and  
23             wastewater construction plans for compliance with ADHS rules, regulations, and  
24             Engineering Bulletins.

1 From July 1982 to August 1983 I was with the Central Regional Office, BWQC, ADHS. My  
2 responsibilities were to conduct construction inspections of water and wastewater facilities to  
3 determine compliance with plans approved by the Technical Review Unit. I also performed  
4 routine operation and maintenance inspections to determine compliance with ADHS rules  
5 and regulations, and compliance with United States Environmental Protection Agency  
6 requirements.

7  
8 From August 1983 to August 1986 I was a Utilities Consultant/Water-Wastewater Engineer  
9 with the Division. My responsibilities were to provide engineering analyses of Commission  
10 regulated water and wastewater utilities for rate cases, financing cases, and consumer  
11 complaint cases. I also provided testimony at hearings for those cases.

12  
13 From August 1986 to August 1990 I was the Engineering Supervisor for the Division. My  
14 primary responsibility was to oversee the activities of the Engineering Section, which  
15 included one technician and eight Utilities Consultants. The Utilities Consultants included  
16 one Telecommunications Engineer, three Electrical Engineers, and four Water-Wastewater  
17 Engineers. I also assisted the Chief Engineer and performed some of the same tasks as I did  
18 as a Utilities Consultant.

19  
20 In August 1990 I was promoted to the position of Chief Engineer. My duties were somewhat  
21 the same as when I was the Engineering Supervisor, except that now I was less involved with  
22 the day-to-day supervision of the Engineering Staff and more involved with the  
23 administrative and policy aspects of the Engineering Section.  
24

1 In April 2000 I was promoted to my present position as one of two Assistant Directors of the  
2 Division. In this position I assist the Division Director in the policy aspects of the Division.  
3 I am primarily responsible for matters dealing with water and energy.  
4

5 **II. PURPOSE**

6 **Q. What is the purpose of your testimony in this case?**

7 A. The purpose is to provide the Division Staff's ("Staff") perspective with regard to the inquiry  
8 made by both Commissioner Kris Mayes and Judge Dwight Nodes concerning statements  
9 made by Gold Canyon Sewer Company ("Gold Canyon" or "Company") that may have led  
10 customers to believe that upgrades to the wastewater treatment plant would not result in rate  
11 increases. I will also provide Staff's perspective with regard to Mr. Trevor Hill's testimony  
12 (filed November 13, 2006). In addition, I will provide Staff's recommendation regarding a  
13 possible remedy the Commission could impose on the Company because of these statements.  
14

15 **III. STAFF PERSPECTIVE REGARDING COMPANY STATEMENTS**

16 **Q. When you stated that the Company made statements regarding no rate increases**  
17 **resulting from the upgrade of the wastewater treatment plant, to what statements are**  
18 **you referring?**

19 A. The statements are those contained in a news article attached to Commissioner Mayes' letter  
20 of August 9, 2006, and a Residential Utility Consumer Office ("RUCO") exhibit entitled  
21 "*Questions and Answers Gold Canyon Sewer Company Plant Upgrade*". I believe it is  
22 RUCO exhibit #3. The news article reports that Algonquin Power Income Fund, the parent  
23 of Gold Canyon, promised customers that their rates would not increase despite \$10 million  
24 dollars the Company would spend to upgrade the wastewater treatment plant. The RUCO  
25 exhibit contains a question and answer provided by the Company that reads as follows:



1 "Will the upgrade mean an increase in Rates? No. GCSC is committed to providing the  
2 upgrade through a combination of paid-in-capital and new development hook-ups".  
3

4 **Q. What is Staff's opinion of those statements?**

5 A. The news article seems to be clear that the Company promised that no rate increase would  
6 occur as a result of the expenditures incurred to upgrade the wastewater treatment plant.  
7 However, the statement contained in the RUCO exhibit is confusing to Staff.  
8

9 **Q. Why is the statement in the RUCO exhibit confusing?**

10 A. In the RUCO exhibit the Company seems to state absolutely that no increase would occur  
11 while at the same time state that the Company would use paid-in-capital to fund the building  
12 of the new plant. Paid-in-capital is investment. Staff cannot recall an instance where a  
13 company has made millions of dollars worth of investment without expecting a return on and  
14 return of the investment over time. In fact, in the news article the Company states not only  
15 that it expects a return, but also needs a return.  
16

17 **Q. Would an average utility customer know or understand the concept of "paid-in-  
18 capital"?**

19 A. It is Staff's opinion that the average utility customer would probably not understand the  
20 concept. In addition, after reading the very first word (i.e., No.) in the answer as provided by  
21 the Company, it is Staff's opinion that most customers (even those that did understand the  
22 concept) would not go beyond that answer. In other words, the customers would expect that  
23 the Company would either not require a rate increase or not ask for a rate increase in order to  
24 pay for the upgrades.  
25

**IV. STAFF PERSPECTIVE REGARDING MR. TREVOR HILL'S TESTIMONY**

**Q. What is Staff's opinion regarding Mr. Trevor Hill's testimony?**

A. Based on my previous testimony about the RUCO exhibit, Mr. Hill's testimony is more what Staff would expect the Company to convey to its customers. However, in reading the Gold Canyon handout (RUCO exhibit), that is not what the Company did convey. Although Mr. Hill states that he cannot recall telling customers that a rate case would not be required because of the Company's investments in upgrades, but instead told them that the Company would not seek an increase in rates until the odor problems were corrected or for approximately five years, that is not what the Company handout conveys. Again, when the Company asks itself if the upgrade will mean an increase in rates; Gold Canyon's response is "No." Neither the question nor the answer refers to an "immediate" increase in rates. In addition, no where in the handout is the five year timeframe for requesting an increase in rates mentioned. The only mention of a timeframe in the handout is contained in the answer immediately preceding the rates question. Gold Canyon states that the construction period for the upgrades will last approximately 10 to 12 months.

**V. POSSIBLE REMEDY**

**Q. What is Staff's opinion regarding the Commission imposing some type of remedy on the Company because of the statements made regarding no rate increases?**

A. Staff believes that there should be some type of remedy or requirement imposed on the Company. However, what that requirement or remedy should be is not exactly clear.

**Q. Why is that?**

A. Staff believes that the Company's statements were inaccurate and misleading. Primarily because the Company has no authority when it comes to deciding when a rate increase should or should not be granted. The Company has the primary responsibility to decide

1 when to file an application requesting a change in rates, but the Commission is the only entity  
2 that can authorize a change (either an increase or decrease) in rates. All that said, there is no  
3 specific Commission rule or regulation that prohibits a company from making inaccurate or  
4 misleading statements regarding when a company may or may not require an increase in  
5 rates. However, Arizona Revised Statute ("ARS") § 40-322.A.1 states, "The commission  
6 may ascertain and set just and reasonable standards, classifications, regulations, practices,  
7 measurements or service to be furnished and followed by public service corporations other  
8 than a railroad." Staff believes that it is through this statute and its constitutional authority  
9 that the Commission can impose a remedy on Gold Canyon for its inaccurate and misleading  
10 statements.

11  
12 **Q. In your previous answer you stated that the Company has the "primary responsibility"**  
13 **when it comes to filing a rate application. Why is it that the Company does not have the**  
14 **"sole responsibility"?**

15 A. That is because the Commission also has the authority to require a company to file a rate  
16 application when it believes that current rates of a company are not just and reasonable;  
17 either too high or too low.

18  
19 **Q. So you are saying that the Commission can require a company to file an application for**  
20 **a rate increase or decrease?**

21 A. Yes, and it is because of this that Staff believes that Company's statements are inaccurate and  
22 misleading. The Company has no authority to promise or tell its customers when, why, or by  
23 how much its rates will definitely increase or decrease without an order from the  
24 Commission.

25

1     **Q.     In Staff's view, what remedy could the Commission impose in this case?**

2     A.     Under the constitution and ARS § 40-322.A.1 the Commission could order, in the decision  
3           resulting from this case, the Company to make no statements in the future regarding rate  
4           increases without first getting those statements approved by the Commission. The  
5           Commission could also order the Company to make no misleading or inaccurate statements  
6           to its customers regarding any aspects of its operations. In the order the Commission could  
7           also warn Gold Canyon that if the Company ever violates this portion of the order, that the  
8           Commission will impose monetary and/or other sanctions against the Company which shall  
9           not be recovered from rate payers.

10

11    **Q.     Does this conclude your testimony?**

12    A.     Yes.